REMARKS

Claims 11-25 are pending. No amendments are made herein. Claims 11-25 are rejected under 35 USC 103(a) as being unpatentable over US patent 6,788,646 (Fodor et al) in view of US patent 4,872,157 (Hemmady et al.).

Response to rejections under 35 USC 103(a)

Examiner cites "link capacity" in Fodor as corresponding to Applicants' "limit value". However, link capacity is the total bandwidth of a communications connection, and is a physical constraint in the communications facility. In contrast, "limit value" is an access limitation that is administratively set, based on demand and load. Link capacity has a different magnitude than limit value except in the special case of a dedicated link with no sharing and no safety margin. This special case does not apply to either the present invention or to Fodor, both of which relate to sharing of network capacity. Thus, Fodor's "link capacity" does not correspond to Applicants' "limit value".

Examiner cites Fodor col. 3, lines 17-34 (blocking probabilities are minimized) as corresponding to Applicants' initial optimization step (setting the limit values such that probabilities for each of the pairs related to not approving the transmission between the marginal nodes of the pair are substantially the same, and such that an overload situation in the communication network does not occur). However, Fodor's "blocking probabilities are minimized" describes a goal or desired final result of optimization, not the initial step. Of course minimizing blocking while maximizing throughput is good. Applicants and Fodor both teach steps to achieve aspects of such a goal, but the claimed steps are totally different than the prior art steps.

Fodor starts by dividing link capacity into a first part common to rigid and elastic traffic classes, and a second part dedicated for elastic traffic. He then sets an admission control parameter for the elastic traffic based on capacity of the elastic portions by using a call-level model for elastic traffic (col. 6, line 10). He teaches a multi-class call-level model of a transmission link for mixed rigid-elastic traffic using a Markovian model of a transmission link

serving both peak-bandwidth assured (rigid or non-elastic) and elastic traffic classes (col. 6, lines 26-35).

In contrast, Applicants consider each pair of nodes that are start or end points of transmissions through the network (called "marginal nodes"), and initially sets access limit values for all pairs the same (fair handling per page 6, lines 5-7) at a level that assures no blocking. The limit values are raised equally for all pairs until an overload starts to occur. An access limit is set at this value, or just below it, for the pair(s) involved in transmissions that caused the overload. Next (claim 18), the limit values are increased for all remaining pairs until the next overload occurs. An access limit is set at this value, or just below it, for the pair(s) involved in transmissions that caused the new overload. These last two steps are repeated until limit values for all pairs are set (claim 19). The advantage of this method is that limits can be defined for access control in a balanced and resource-efficient way in a network without explicit path reservations.

Examiner holds on page 4, line 13 of the office action that Applicants' first step of setting limit values for all pairs substantially the same at a level that assures no blocking and such that an overload situation in the communication network does not occur (claim 11, lines 8-12) corresponds to Fodor's goal of providing maximum link bandwidth with minimum blocking probabilities (Fodor col. 3 lines 17-34). However, maximum throughput does not occur in Applicant's method for any pairs until the limit values are increased (claim 11, line 14), and does not occur for additional links (claim 18) or for all links (claim 19) until the optimization steps are iterated. At that point the limit values for all pairs are not substantially the same. Again, Examiner is comparing the first step of Applicants' invention with the final goal of Fodor.

M.P.E.P. 2143.04 provides that to establish *prima facie* obviousness of a claimed invention, all the claims limitations must be taught or suggested by the prior art. All words in a claim must be considered for judging the patentability of the claim against the prior art. If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending there from is nonobvious. Hemmady does not address the distinctions above. Thus, the combination of Fodor and Hemmady does not provide a *prima facie* case for the obviousness rejections of the claimed invention.

Conclusion

For obviousness to occur under 35 USC 103, a combination must be suggested by the references or motivated by obvious or expected benefits in view of documented knowledge in the field at the time of the invention, not by hindsight guided by the Applicants' invention. It should not be contrary to the teachings of the references, it must work, and it must produce the Applicants' invention. These criteria are not met as argued above because Fodor lacks elements and steps of Applicants' invention that are not addressed by Hemmady. The dependent claims should be allowable as depending from an allowable claim. Therefore the Applicant feels this application is in condition for allowance, which is respectfully requested.

The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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